

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAUL EDUARDO RIVERA DE LA TORRE,

Defendant.

REPORT AND RECOMMENDATION

10-CR-6211L

By Order of Hon. David G. Larimer, United States District Judge, dated December 14, 2010, all pretrial matters in the above-captioned case have been referred to this Court pursuant to 28 U.S.C. §§ 636(b)(1)(A)-(B). (Docket # 67).

On January 13, 2012, defendant filed a motion to suppress evidence seized from his person following his arrest. (Docket # 132). On February 2, 2012, the government represented to this Court that it does not intend to introduce at trial any items of physical evidence seized from the defendant at the time of his arrest. (Docket # 147). On February 16, 2012, defendant advised this Court that he does not believe a hearing is necessary and reserving his right to renew the motion in the event that government changes its position. (Docket # 148).

Accordingly, I recommend that the district court deny as moot without prejudice

to renewal defendant's motion to suppress the physical evidence seized from him following his arrest. (Docket # 132).

s/Marian W. Payson

MARIAN W. PAYSON
United States Magistrate Judge

Dated: Rochester, New York
February 17, 2012